

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES WANG,
Plaintiff,
v.
JERRY BROWN, et al.,
Defendants.

Case No. 11-cv-05648-WHO

**ORDER REGARDING BRIEFING AND
HEARING SCHEDULE ON MOTIONS
TO DISMISS**

Re: Dkt. Nos. 38, 44, 45

This order concerns the briefing and hearing schedule on the two motions to dismiss currently pending in this case, one filed by defendant Edmund G. Brown, Governor of California, and the other filed by defendant Dr. Jeffrey Beard, Secretary of the California Department of Corrections and Rehabilitation. Dkt. Nos. 38, 45.

Governor Brown filed his motion to dismiss on April 22, 2015. Dkt. No. 38. The motion is aimed at Wang's original complaint. *Id.* On April 17, 2015, however, Wang had filed – but had not served on Governor Brown – a first amended complaint. Dkt. No. 37. In his reply brief, Governor Brown states that the original complaint and the first amended complaint are materially identical with respect to the issues raised by the motion to dismiss. Dkt. No. 44 at 2. He asks that I rule on the motion or, in the alternative, construe his reply brief as a motion to dismiss the first amended complaint and set an appropriate briefing and hearing schedule. *Id.*

Dr. Beard filed his motion to dismiss on May 22, 2015, two days after Governor Brown filed his reply brief. Dkt. No. 45. The principal issues raised by Dr. Beard's motion to dismiss are identical or substantially identical to those raised by Governor Brown's. *See id.* The same attorneys from the Office of the Attorney General represent both Dr. Beard and Governor Brown.

In light of this procedural history, the briefing and hearing schedule on Governor Brown's and Dr. Beard's motions to dismiss is modified as follows:

1 • Governor Brown's motion to dismiss Wang's original complaint, Dkt. No. 38, is
2 DISMISSED AS MOOT. The June 3, 2015 hearing on that motion is VACATED.

3 • Governor Brown's reply brief, Dkt. No. 44, is construed as a motion to dismiss Wang's
4 first amended complaint.

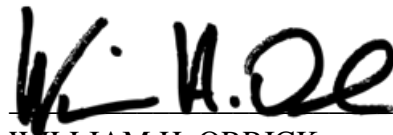
5 • Wang shall a single opposition brief to Governor's Brown's and Dr. Beard's motions to
6 dismiss the first amended complaint. The opposition brief is due on or before June 17, 2015.

7 • Governor Brown and Dr. Beard shall file a single reply brief in support of their motions
8 to dismiss. The reply brief is due on or before June 24, 2015.

9 • A hearing on the motions to dismiss is set for July 1, 2015 at 2:00 p.m.

10 **IT IS SO ORDERED.**

11 Dated: May 27, 2015

A handwritten signature in black ink, appearing to read "W. H. Orrick", written over a horizontal line.

WILLIAM H. ORRICK
United States District Judge